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EXAMINER				
KARDOS, NEIL R				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,353

Applicant(s)

STAMM ET AL.

Examiner

Neil R. Kardos

Art Unit

4172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date 5/5/06, 11/21/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a non-final first Office action on the merits. Currently, claims 1-25 are pending.

Claim Objections

Claims 1-25 are objected to because of minor informalities.

As per claims 1 and 24-25, the use of the term “coaching comment” is not applicable when the survey subject is a product (as in claim 22) or a service (as in claim 23). As recited in the specification, “a coaching comment may be provided for use by the employee’s supervisor for counseling and coaching the employee regarding his or her individual and/or comparative performance.” The specification does not make any reference to how the coaching comment would be used if the survey subject is a product or service. Appropriate correction is required.

As per claims 3, 9, and 12-14, Examiner suggests including a word (“wherein”) or phrase (“further comprising”) after the clause introducing the claim dependency. The current wording is awkward, and a minor correction would clarify the claim language. For example, Claim 3 recites “The method of Claim 1, prior to determining....” Addition of “wherein” or “further comprising” following the comma, or any other correction that Applicant feels appropriate, would clarify the claim language.

As per claim 3, the recitation “a the survey subject” requires correction.

As per claim 9, a space should be inserted between “Claim” and “1.” The claim currently recites “Claim1.”

As per claim 11, there is a lack of antecedent basis for “the survey subject supervisor.”

As per claims 17-20, the recitation “on or more survey participants” should be amended to recite “on[e] or more survey participants.”

The dependent claims 2-23 are also rejected because they fail to add substantial limitations to remedy the deficiencies of the claims that they depend from.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17, 19, 21, and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent number 6,754,874 to Richman (“Richman”).

As per claim 1, Richman discloses a method for aggregating and reporting customer feedback information comprising:

conducting a survey by asking one or more survey questions about one or more performance categories associated with a survey subject to each of one or more survey participants (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses);

collecting responses from each of the one or more survey participants in response to each of the one or more survey questions (see id. above);

determining performance scores for each of the one or more performance categories (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);

assembling performance comments for each of the one or more performance categories from each of the one or more survey participants about the performance of the survey subject (see figure 4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15);

determining a coaching comment for each of the one or more performance categories based on a performance score and assembled performance comments for each of the one or more performance categories (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17); and

preparing a performance survey subject scorecard containing a performance score and coaching comment for each of the one or more performance categories (see figures 4 and 6).

As per claim 2, Richman discloses a method whereby the survey subject scorecard further contains one or more performance comment received from one or more survey participant for each of the one or more performance categories (see figure 6: items 620 and 640, depicting

displaying different comments in block 640 depending on which category is selected in block 620; column 15: lines 1-3).

As per claim 3, Richman discloses prior to determining performance scores for each of the one or more performance categories, categorizing responses to each of the one or more survey questions by survey subject and by one or more performance categories associated with the survey subject (see figure 4: items 430-440 and figure 6: item 620, depicting categorizing responses to different performance categories; column 16: lines 39-67 and column 17: lines 1-12, disclosing sorting responses by employee).

As per claim 4, Richman discloses a method whereby determining performance scores for each of the one or more performance categories includes analyzing a set of survey responses collected from one or more survey participants responsive to questions about the performance of the survey subject (see figure 4: items 420-440, depicting responses from a feedback receiver “FR” and feedback provider “FP” at items 430-440 and overall expectations at item 420; column 10: lines 12-15, wherein the rating can be changed after considering existing ratings).

As per claim 5, Richman discloses a method further comprising comparing the performance scores for each of the one or more performance categories with performance scores for the one or more performance categories from a prior survey period (see column 15: lines 3-10; column 16: lines 25-38).

As per claim 6, Richman discloses a method further comprising comparing the performance scores for each of the one or more performance categories with performance scores for the one or more performance categories associated with a group of survey subjects (see column 18: lines 5-14, disclosing comparing employee scores in a peer comparison).

As per claim 7, Richman discloses a method further comprising forwarding the survey subject performance scorecard to a survey subject supervisor (see figure 3: items 315-320 and 330-335; figure 4: item 480; column 6: lines 6-9; column 8: lines 54-67 and column 9: lines 1-26).

As per claim 8, Richman discloses a method further comprising posting the survey subject performance scorecard to an internet-based web page (see column 6: items 6-9; column 8: lines 54-67 and column 9: lines 1-26; column 16: lines 38-48).

As per claim 9, Richman discloses after collecting responses from each of the one or more survey participants in response to each of the one or more survey questions, storing the responses in a survey results database (see id. above).

As per claim 10, Richman discloses a method further comprising preparing a summary report for each survey subject containing responses to each of the one or more survey questions from each of the one or more survey participants (see column 17: lines 54-67 and column 18: lines 5-15).

As per claim 11, Richman discloses a method further comprising forwarding the summary report to the survey subject supervisor (see id. above; column 16: lines 38-67 and column 17: lines 1-12, disclosing allowing supervisors to access the reports; column 9: lines 38-55).

As per claim 12, Richman discloses a method prior to categorizing responses to each of the one or more survey questions by survey subject and by one or more performance categories associated with the survey subject, querying a survey results database for responses for each of the one or more survey participants in response to each of the one or more survey questions (see

column 16: lines 38-65, disclosing using a pull-down menu to view scorecards from different survey participants; column 20: lines 30-47).

As per claim 13, Richman discloses prior to determining a coaching comment for each of the one or more performance categories based on a performance score and assembled performance comments for each of the one or more performance categories, querying a coaching comments database for the coaching comments (see column 7: lines 61-64, disclosing importing goals from a database; column 7: lines 65-67 and column 8: lines 1-13, disclosing importing expectations and training information from a database; column 11: lines 61-67 and column 12: lines 1-24; column 20: lines 30-47).

As per claim 14, Richman discloses prior to conducting a survey by asking one or more survey questions about one or more performance categories associated with a survey subject to each of one or more survey participants, identifying one or more survey participants (see column 3: lines 43-62).

As per claim 15, Richman discloses a method whereby identifying one or more survey participants includes identifying a survey sampling group based on the survey subject about which the survey is to be conducted (see column 6: lines 1-17).

As per claim 16, Richman discloses a method further comprising obtaining contact information for each of the one or more survey participants (see figure 4: item 410; figure 9: item 910).

As per claim 17, Richman discloses a method further comprising conducting the survey by live interview with each of the one or more survey participants (see column 12: lines 56-67 and column 13: lines 1-67 and column 14: lines 1-54).

As per claim 19, Richman discloses a method further comprising conducting the survey by Internet-based interview session with each of the on or more survey participants (see column 8: lines 54-67 and column 9: lines 1-26; column 16: lines 38-48).

As per claim 21, Richman discloses a method whereby the survey subject is an employee (see column 3: lines 43-62).

As per claim 23, Richman discloses a method whereby the survey subject is a service (see figure 9).

As per claim 24, Richman discloses a method for creating a customer feedback performance scorecard, comprising:

surveying a group of survey participants regarding the performance of a survey subject in association with one or more performance categories (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses);

collecting responses from each survey participant (see id. above);

based on survey participant responses, determining performance scores for each of the one or more performance categories (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);

assembling performance comments for each of the one or more performance categories from each survey participant about the performance of the survey subject (see figure

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4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15); tailoring a coaching comment for each of the one or more performance categories based on performance scores and assembled performance comments and based on a comparison of performance scores and assembled performance comments with performance scores and assembled performance comments associated with prior surveys (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17); and preparing a performance survey subject scorecard containing a performance score and coaching comment for each of the one or more performance categories (see figures 4 and 6).

As per claim 25, Richman discloses a system for creating a customer feedback performance scorecard, comprising:

- a customer service research center operative:
 - to survey a group of survey participants regarding the performance of a survey subject in association with one or more performance categories (see generally column 3: lines 43-62; column 5: lines 43-46; column 6: lines 20-24; figures 4 and 6; see figure 1, depicting participants evaluating employees; figure 9, depicting survey questions with multiple possible responses);
 - to collect responses from each survey participant (see id. above);
- a customer feedback performance scorecard engine operative:

to determine performance scores for each of the one or more performance categories based on survey participant responses (see figure 4: items 430-440, depicting different scores for different core competency areas; column 7: lines 30-36; column 8: lines 14-35; column 9: lines 10-15);

to assemble performance comments for each of the one or more performance categories from each survey participant about the performance of the survey subject (see figure 4: items 450-460, depicting performance comments on a scorecard; figure 6: item 640; figure 9: item 930; column 7: lines 30-36 and 52-59; column 9: lines 10-15);

to query a coaching comments database for coaching comments related to performance scores and performance comments (see column 7: lines 61-64, disclosing importing goals from a database; column 7: lines 65-67 and column 8: lines 1-13, disclosing importing expectations and training information from a database; column 11: lines 61-67 and column 12: lines 1-24; column 20: lines 30-47);

to tailor a coaching comment for each of the one or more performance categories based on performance scores and assembled performance comments and based on a comparison of performance scores and assembled performance comments with performance scores and assembled performance comments associated with prior surveys (see figure 4: items 450-460, depicting suggestions for improvement; figure 6: item 640; column 7: lines 52-64; column 8: lines 5-13; column 10: lines 16-17);

and

to prepare a performance survey subject scorecard containing a performance score and coaching comment for each of the one or more performance categories (see figures 4 and 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richman as applied above, and further in view of U.S. patent number 6,381,744 to Nanos et al ("Nanos").

As per claim 18, Richman does not explicitly disclose a method further comprising conducting the survey by interactive voice response session with each of the on or more survey participants.

Nanos teaches recording verbal survey responses via a microphone (see column 9: lines 51-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the verbal survey response means taught by Nanos to gather the survey data in the invention of Richman. One of ordinary skill in the art would have been motivated to do so in order to allow the user to respond to open-ended survey questions (see Nanos: column 9: lines 51-53).

As per claim 20, Richman does not explicitly disclose a method further comprising conducting the survey via a survey kiosk with each of the on or more survey participants.

Nanos teaches this limitation (see title; abstract; column 5: lines 42-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the means taught by Nanos to gather the survey data in the invention of Richman. One of ordinary skill in the art would have been motivated to do so in order to provide an automated, reprogrammable means of collecting survey data at a specific location (see Nanos: column 1: line 9 through column 4: line 46).

As per claim 22, Richman does not explicitly disclose a method whereby the survey subject is a product.

Nanos teaches this limitation (see column 10: lines 1-22)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the invention of Richman to evaluate products as taught by Nanos. One of ordinary skill in the art would have been motivated to do so in order to test products (see Nanos: column 1: lines 9-15).

Additional Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. patent number 6,970,831 to Anderson et al, directed to a method for evaluating customer service.

U.S. patent number 7,065,494 to Evans, directed to a system and method for rating customer service.

U.S. pre-grant publication number 2004/0088177 to Travis et al, directed to a method and system for measuring and managing employee performance.

U.S. pre-grant publication number 2004/0205522 to Harrison, directed to customer service evaluation.

U.S. pre-grant publication number 2003/0167197 to Shoemaker et al, directed to a system and method for measuring and managing customer relationships.

U.S. pre-grant publication number 2003/0041056 to Bossemeyer et al, directed to acquiring and processing customer feedback.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571)270-3443. The examiner can normally be reached on Mon-Thu and alternating Fridays from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nacem Haq/
Primary Examiner, Art Unit 4172

Neil R. Kardos
Examiner
Art Unit 4172

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